



BUCKEYE FOREST COUNCIL
PROTECTING OHIO'S NATIVE FORESTS AND THEIR INHABITANTS.

December 13, 2011

Regional Director, Midwest Region
Attn: Lisa Mandell
U.S. Fish and Wildlife Service
Ecological Services
5600 American Blvd. West, Suite 990
Bloomington, MN 55437-1458
Email: permitsR3ES@fws.gov

**Re: The NiSource Draft Multi-Species Habitat Conservation Plan and the U.S.
Fish & Wildlife Service Draft Environmental Impact Statement**

Dear Ms. Mandell,

On behalf of the Buckeye Forest Council, please consider the following comments on the NiSource Gas Transmission and Storage ("NiSource") draft multi-species habitat conservation plan ("HCP") and the U.S. Fish & Wildlife Service ("Service") draft environmental impact statement ("EIS").

The Buckeye Forest Council (BFC) is a membership-based, grassroots organization dedicated to protecting Ohio's native forests and their inhabitants. The BFC uses education, advocacy and organizing to address the need for forest preservation and low-impact recreation over logging and resource extraction. We seek to instill in Ohioans a sense of personal connection to and responsibility for Ohio's native forests and to challenge the exploitation of land, wildlife and people.

The NiSource proposal is perhaps one of the largest incidental take permits ever requested. *See* EIS App. A (Letter of Paul S. McCulla, County Administrator, County of Fauquier, Commonwealth of Virginia, dated Dec. 7, 2007). Though the scope of the proposal spans 14 states, the proposed ITP coverage is particularly dense in Ohio. In addition to pipeline corridors, several entire Ohio counties have been slated for ITP coverage. Moreover, the proposed ITP coverage includes approximately 70,000 acres – or roughly one-third – of the Wayne National Forest, Ohio's only national forest.

As detailed more fully in the comments submitted by EarthJustice, which BFC co-signed, NiSource and its subsidiaries—Columbia Gas Transmission Corp. (“Columbia Gas”) and Columbia Gulf Co. (“Columbia Gulf”)—do not qualify for an incidental take permit (“ITP”). The Service’s draft EIS runs afoul of the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321–4370H (2006), and the Service’s proposed issuance of an ITP would violate sections 7 and 10 of the Endangered Species Act (“ESA”), 16 U.S.C. §§ 1531–1544 (2006).

BFC finds the potential 50 and even 10-year durations of this project to be particularly troubling. Under the 50-year proposal, the Service assumes that NiSource’s front-loaded mitigation will provide a “benefit” and allows this assumption to factor into its analysis of alternatives, *see* EIS 2-37, yet the Service provides no assessment or reasoned analysis to support this supposition. Is it possible to meaningfully mitigate 50 years worth of activities in seven years, without any further mitigation thereafter? Will such front-loaded mitigation be guaranteed to be effective over the entire course of the 50-year period? What are implications to not only wildlife, but to other natural resources, of implementing mitigation for 50 years worth of O&M activities in seven years and not mitigating for such activities over the course of the next 43 years? The EIS does not answer these highly significant questions and therefore fails to satisfy NEPA’s “hard look” requirement.

BFC believes that reducing the geographic area and proposed time frame will benefit applicable T&E species by reducing take, and may benefit the Service by allowing it to conduct a proper impacts analysis, something that the draft EIS lacks now. If the Service reduced the 1-mile corridor to NiSource’s existing 50-foot right of way, the Service would reduce the covered lands corridor area by over 99%. Likewise, reducing the size of the expansion field storage areas from entire counties to actual expansion field areas should result in a dramatic reduction in take and species impacts. Finally, reducing the proposed timeframe would significantly reduce the uncertainty associated with the current proposal in numerous respects. Accordingly, the Service should reject the current proposal and more fully consider its approach in accordance with NEPA and section 10 of the ESA.

The HCP and EIS violate the ESA and NEPA in numerous respects. Accordingly, to the extent any portion of this project is allowed to go forward, we strongly urge the Service to more fully consider the benefits from a 10-year permit, with a geographic area limited to the existing right-of-way, compressor lands stations, and expansion field areas.

Sincerely,

/s/ Nathan G. Johnson
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